

IN THE UNITED STATES DISTRICT COURT
RECEIVED FOR THE MIDDLE DISTRICT OF ALABAMA

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NORTHERN DIVISION

UNITED STATES OF AMERICA

VS.

WENDALL JEFFERSON, MOVANT/prose

CASE NO. 3:06cv60-T

MOTION FOR "LEAVE TO AMEND" §2255

Comes now the movant Wendall Jefferson, acting pro se in the above §2255 action and respectfully now under Rule 15(a) FRCP, requesting to amend previously filed §2255 in this case.

1. BACKGROUND.

Jefferson filed a motion to Vacate, Set Aside or Correct Sentence on January 23, 2006. On January 27, 2006, this court entered an order directing the government to respond within thirty (30) days, the government did on February 27, 2006. The court then gave Jefferson fourteen (14) days to respond with any new issues or other arguments in this case. Jefferson now comes to the court respectfully with motion to Amend.

2. BASIS FOR AMENDING TO §2255

Jefferson now comes to the court with new facts and case law. On December 4, 2003 (pg. 27 at 1-4) and on March 17, 2004 (pg. 20 at 6-25) The government openly admits there was NO! criminal activity occurred at the residence Jefferson shared with his wife even though weapons and drugs were found.

Jefferson received a twenty five year(25)enhancement under section §924(c).Jefferson has argued in his previously briefs that the goverment did not provide enough evidence that he violated the language under§924(c). ~~THE HOUSE JUDICIARY COMMITTEE~~ explained,"the mere presence of a firearm in an area where a criminal act occurs is not sufficent basis for imposing this particular mandatory sentence".cited in US.vs.Timmons 283 F3d as well in Finley,245F3d,"there must be a showing of some nexus between the firearm and drug selling operation".Jefferson new caselaw comes from78clr294,United States vs.Rios,n80. 05-50000,6/2/06"where there was no criminal activity at defendants home but weapon found along with drug documents ,but was insufficent to convict." ~~JUDGE~~ MARSHA S.BERZON quoted"The presence of a firearm in some proximity to collateral of a drug crime but far from the locus of drug activities does not establish the requisite nexus."

3.APPLICABLE LAW

In Mayle VS.Felix 162 Led2d 587(2005)"petitioner filed an am~~en~~ petition in whic he added a new claim for relief eight months after a federal courts applied him a new counsel.FEDERAL RULE OF CIVIL PROCEDURE 15(a)"allows pleading amendments with "leave of court"any time during a proceeding.

CONCLUSION

Jefferson prays that this courts respectfully accepts his motion and the facts he have claim.

RESPECTFULLY,

WENDALL JEFFERSON



CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2006, a copy of this motion was filed to the clerk of the courts and also to Assistant United States Attorney **SUSAN R. REDMOND**

Respectfully

Wendall Jefferson

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